

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ORDER NO. 5-01-001

REQUIRING
MALAGA COUNTY WATER DISTRICT
WASTEWATER TREATMENT FACILITY
FRESNO COUNTY
TO CEASE AND DESIST FROM
DISCHARGING WASTE CONTRARY TO REQUIREMENTS

The California Regional Water Quality Control Board, Central Valley Region, (hereafter Board) finds that:

1. The Malaga County Water District (CWD) (hereafter Discharger) owns and operates a wastewater collection, treatment, and storage/disposal facility (WWTF) that provides sewage service to approximately 1,000 residents and various light industries in the unincorporated community of Malaga. The WWTF treatment capacity is 1.2 million gallons per day (mgd), but the disposal capacity is much less due to inadequate disposal facilities. The WWTF and storage/disposal units are about one mile west of Malaga in the southwest quarter of Section 24, T14S, R20E, MDB&M.
2. The WWTF is an extended aeration activated sludge plant that provides wastewater with secondary treatment. Final effluent is discharged (Discharge 002) to eight evaporation/percolation ponds (disposal ponds), and up to 0.35 mgd of tertiary treated effluent (Discharge 001) may be discharged to the Fresno Irrigation District Central Canal under the National Pollutant Discharge Elimination System (NPDES) once the filtration and disinfection units are completed.
3. Discharges from the WWTF are governed by Waste Discharge Requirements (WDRs) Order No. 99-100, NPDES Permit No. CA0084239. Order No. 99-100 specifies, in part, the following:

"A. Discharge Prohibitions:

- "1. Discharging treated wastewater of a character different from that specified in Finding Nos. 9 and 11, or at a location or in a manner different from that specified in Finding Nos. 1 and 6, is prohibited

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"B. General Discharge Specifications:

- "3. Effluent EC shall not exceed that of the source water plus 500 μ mhos/cm, or 1000 μ mhos/cm, whichever is less.

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- "5. Public contact with treated and untreated wastewater at the treatment and disposal areas shall be precluded through such means as fences and signs, or acceptable alternatives.

"C. Discharge 001 (Central Canal) Specifications:

* * *

- "3. Effluent concentrations shall not exceed the following limits:

<u>Constituent</u>	<u>Units</u>	<u>Monthly Average</u>	<u>7-Day Median</u>	<u>Daily Maximum</u>
	* * *			
Turbidity	NTU	2		5
	* * *			
Total Residual Chlorine	mg/l			0.1

¹ Shall not exceed 240 MPN/100 ml in more than one sample in any 30-day period."

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"D. Discharge 002 (Disposal Ponds) Specifications:

* * *

- "3. Freeboard in disposal ponds shall never be less than 2 feet (measured vertically).

* * *

"H. Provisions:

- "1. The Discharger shall comply with the "Standard Provisions and Reporting Requirements for Waste Discharge Requirements (NPDES)," dated 1 March 1991, which are part of this Order. This attachment and its individual paragraphs are referred to as "Standard Provision(s)."
- "2. The Discharger shall comply with Monitoring and Reporting Program No. 99-100 (MRP), which is part of this Order, and any revisions thereto as ordered by the Executive Officer.

* * *

- "10. The Discharger shall establish the pretreatment program according to the following time schedule:

<u>Task</u>	<u>Compliance Date</u>
a. Submit the results of an industrial user survey	1 October 1999

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<u>Task</u>	<u>Compliance Date</u>
b. Submit an evaluation of the legal authority necessary for the administration and enforcement of the requirements of Sections 307(b) and (c) and 402(b)(8) of the Clean Water Act.	1 November 1999
c. Submit a determination of technical information necessary to develop and implement the pretreatment ordinance or other means of enforcing pretreatment standards.	1 December 1999
d. Submit an evaluation of the financial programs and revenue sources to implement the program, including proposed funding and staffing levels.	1 January 2000
f. Submit a list of monitoring equipment required to implement the pretreatment program and a description of municipal facilities necessary for monitoring and analysis of industrial wastes.	1 March 2000
g. Submit specific effluent limitations for prohibited pollutants (as defined by 40 CFR 403.5) which shall be incorporated into the pretreatment program.	1 April 2000
h. Submit complete pretreatment program package (40 CFR 403.9) with request for pretreatment program approval.	1 May 2000"

* * *

- "12. By 31 October 1999, the Discharger shall submit a sludge management plan for Board staff approval. This plan must address how and where the sludge will be disposal and the actions necessary to ensure compliance with state and federal regulations.

4. Standard Provisions for Waste Discharge Requirements referenced above, states, in part, that

"A. General Provisions

* * *

- "13. By-pass (the intentional diversion of waste streams from any portion of a treatment facility or collection system, except those portions designed to meet variable effluent limits) is prohibited except under the certain specified conditions . . .

* * *

- "22. Neither the treatment nor the discharge shall create a condition of nuisance or pollution as defined by the CWC, Section 13050."

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"B. General Reporting Requirements:

- "1. In the event the Discharger does not comply or will be unable to comply for any reason, with any prohibition, daily maximum effluent limitation, or receiving water limitation of this Order, the Discharger shall notify the Board by telephone (209) 445-5116 within 24 hours of having knowledge of such noncompliance . . ."

5. The Discharger's self-monitoring reports (SMRs) from November 1999 through October 2000 reveal that it violated its minimum freeboard requirement in three or more of its disposal ponds approximately 75% of the time. Earlier, on 4 October 1999, Board staff observed disposal ponds with less than the minimum required freeboard. The lack of freeboard violates Discharge 002 (Disposal Ponds) Specification No. D.3.
6. According to the Discharger's 1997 RWD, the WWTF disposal ponds were originally estimated to have a design capacity of 1.2 mgd, but conditions described in Finding No. 5, above, demonstrate actual disposal capacity is less than the Discharger's current monthly average flow of approximately 0.80 mgd.
7. On 27 January 2000, the Discharger proposed an emergency discharge to the Canal to alleviate the freeboard in the ponds. During February and March 2000, the Discharger discharged a total of approximately 10 million gallons of partially treated wastewater to the Canal. During the discharge, the Discharger violated the maximum daily chlorine residual (February 2000) and average monthly turbidity effluent limits (February and March 2000) set forth in Discharge 001 (Central Canal) Specification No. C.3. The Discharger constructed a temporary chlorination system and the discharge pipeline necessary for surface water discharges, but had no filtration units.
8. In January 2000, the Discharger constructed a one-foot deep temporary pond (hereafter 'temporary pond') adjacent to an existing disposal pond to provide additional percolation and storage capacity. The Discharger did not submit a proposed engineering report detailing the pond's design and/or capacity and/or operating conditions.
9. On 1 August 2000, Board staff observed an unknown quantity of treated, disinfected wastewater had spilled from the emergency pond onto adjacent property. One disposal pond was empty for maintenance and all other ponds violated the minimum freeboard requirement. The Discharger did not notify the Board of these conditions as required by Standard Provisions, General Reporting Requirement No. B.1. The Discharger failed to contain and prohibit public contact with wastewater, maintain at least two feet of freeboard in the disposal ponds, and meet the conditions for by-pass of discharges. As a result of the handling of the event, the Discharger violated the following sections of WDRs Order No. 99-100: Discharge Prohibition No. A.1,

General Discharge Specification No. B.5, Discharge 002 (Disposal ponds) Specification No. D.3, and Provision No. H.1 (Standard Provisions, General Provision No. A.13). These conditions also create potential conditions of nuisance, which threatens violation of Standard Provisions, General Provision No. A.22.

10. On 5 December 2000, the Discharger submitted a water balance (based on a 25-year return period) for November 2000 through October 2001 that indicates wastewater will remain within 6 inches of the top of the disposal ponds through April 2001, creating a potential for uncontrolled discharges and nuisance conditions.
11. On 18 December 2000, the Discharger's consultant again submitted a request to temporarily discharge to the Canal to relieve the high wastewater levels in the ponds.
12. According to a 9 November 2000 letter and a formal Declaration adopted on 28 November 2000 by the District, it has committed to completing the following improvements by 31 December 2001 to fully comply with Order No. 99-100:
 - install the proposed filtration equipment and associated pumps;
 - complete the disinfection and dechlorination system;
 - remove and replace the influent screw pump;
 - remove and replace the sludge thickening collector equipment, and
 - develop and install a groundwater monitoring network.
13. For the improvements described in Finding No. 12, the Discharger initially applied for a Community Development Block Grant (CDBG) under the administration of the County of Fresno. However, according to a 30 October 2000 letter from the Discharger's consultant, the CDBG is no longer available. The Discharger also submitted an application for funding assistance to the State Water Resources Control Board (hereafter State Board).
14. On 14 December 2000, the consultant submitted a letter (on behalf of the Discharger) by fax indicating that the Discharger is limiting development activities to warehouse and distribution facilities that do not generate significant water or sewer demands. The letter also indicates that the Discharger is not presently reviewing improvement plans for developments that require annexation to the District or the construction of new water or sewer mains. The Discharger has not accepted developments with significant hydraulic (high flow) demands in the past few years. The Discharger does not anticipate new developments until after it initiates construction of the proposed WWTF improvements. Although the Discharger does not anticipate new development, it has not committed specifically to control new flow from development until completion of the improvements.

15. The Discharger failed to submit quarterly source water monitoring data required by MRP No. 99-100, a violation of WDRs Order No. 99-100, Provision No. H.2. After a 28 September 2000 NOV, the Discharger submitted source water monitoring data for the third quarter of 2000. The current source water and effluent conductivity at 25°C (EC) levels from January through October 2000 indicate that the Discharger exceeded the EC limit of 500 µmhos/cm over source water EC by an average of 1 to 100 µmhos/cm. These exceedances occur approximately 3 to 4 times a month and violate General Discharge Specification B.3.
16. The Discharger is implementing a five-year-old pretreatment program that has not received Board approval. Pursuant to WDRs Order No. 99-100, Provision No. H.10, the Discharger is required to develop an up-to-date complete pretreatment program. The Discharger submitted the first two reports required by WDRs Order No. 99-100 on 14 October 1999 and 26 October 1999. The Discharger also submitted incomplete supplemental information (old ordinance, etc.) on 30 October 2000. The failure to submit remaining reports (due 1 December 1999, 1 January 2000, 1 March 2000, 1 April 2000 and 1 May 2000) violates Provision No. H.10. The development and implementation of an effective pretreatment program and appropriate local limits will enable the Discharger to comply with its effluent EC limits.
17. Pursuant to WDRs Order No. 99-100, Provision No. H.12, the Discharger is required to submit a sludge management plan. The Discharger's failure to submit the report (due 31 October 1999) violates Provision No. H.12.
18. California Water Code (CWC), Section 13267(b)(1), states, in part, that:

In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of discharging, or who proposes to discharge waste . . . could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports.

19. CWC Section 13301 states, in part, that:

When a regional board finds that a discharge of waste is taking place or threatening to take place in violation of requirements or discharge prohibitions prescribed by the regional board or the state board, the board may issue an order to cease and desist and direct that those persons not complying with the requirements or discharge prohibitions (a) comply forthwith, (b) comply in accordance with a time schedule set by the board, or (c) in the event of a threatened violation, take appropriate remedial or preventive action. In the event of an existing or threatened violation of waste discharge requirements in the operation of a community sewer system, cease and desist orders may restrict or prohibit the volume, type, or concentration of waste that might be added to such system by dischargers who did not discharge into the system prior to the issuance of the cease and desist order. Cease and desist orders may be issued directly by a board, after notice and hearing, or in accordance with the procedure set forth in Section 13302.

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20. The Board has notified the Discharger and interested agencies and persons of its intent to consider adoption of a Cease and Desist Order and provided them with an opportunity for public hearing and an opportunity to submit their written views and recommendations.
21. The Board, in a public meeting on 26 January 2001, in Sacramento, California, heard and considered all comments pertaining to this Order.
22. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Section 21000, et seq.), in accordance with Title 14, California Code of Regulations, Section 15321(a)(2).
23. Any person adversely affected by this action of the Board may petition the State Water Resources Control Board (State Board) to review the action. The petition must be received by the State Board Office of the Chief Counsel, P.O. Box 100, Sacramento, California 95812-0100, within 30 days of the date on which the action was taken. Copies of the law and regulations applicable to filing petitions will be provided on request.

IT IS HEREBY ORDERED that, pursuant to Sections 13267 and 13301 of the California Water Code, the Malaga County Water District, its agents, successors, and assigns shall:

1. Cease and desist discharging wastes in violation or threatened violation of Waste Discharge Requirements Order No. 99-100 in accordance with the time schedule and tasks set forth below. No term or condition of WDRs Order No. 99-100 is superseded or stayed by this Cease and Desist Order.
2. Resolve the capacity problems at the WWTF according to the following:

<u>Task</u>	<u>Compliance Date</u>	<u>Report Due</u>
a. Complete final plans and specifications for appropriate modifications.	1 Feb 2001	15 Feb 2001
b. Secure financing for the approved modifications, specifically the filtration units.	1 Mar 2001	15 Mar 2001
c. Begin construction of the approved modifications.	2 Apr 2001	16 Apr 2001
d. Submit status report.		15 Aug 2001

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<u>Task</u>	<u>Compliance Date</u>	<u>Report Due</u>
e. Complete improvements identified in Finding No. 12 and submit an engineering report certifying the treatment and disposal capacity of the WWTF.	31 Dec 2001	15 Jan 2002
f. Submit a copy of the operation and maintenance (O&M) manual for the upgraded WWTF, specifically the filtration units. The O&M manual shall be prepared under the supervision of a California registered professional engineer and include descriptions of complete operational procedures to maintain compliance with Order No. 99-100. Further, the O&M manual must satisfy the items in Standard Provision No. B.2.		1 Feb 2002

3. Submit the remaining pretreatment reports according to the following time schedule:

<u>Task</u>	<u>Compliance Date</u>	<u>Report Due</u>
a. Submit a determination of technical information necessary to develop and implement the pretreatment ordinance or other means of enforcing pretreatment standards.		1 May 2001
b. Submit an evaluation of the financial programs and revenue sources to implement the program, including proposed funding and staffing levels.		1 Jun 2001
c. Submit a list of monitoring equipment required to implement the pretreatment program and a description of municipal facilities necessary for monitoring and analysis of industrial wastes.		1 Jul 2001
d. Submit specific effluent limitations for prohibited pollutants (as defined by 40 CFR 403.5) which shall be incorporated into the pretreatment program.		1 Aug 2001

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<u>Task</u>	<u>Compliance Date</u>	<u>Report Due</u>
e. Submit complete pretreatment program package (40 CFR 403.9) with request for pretreatment program approval.		3 Sep 2001
f. Fully implement proposed pretreatment program		1 Oct 2001
4. Submit by 1 September 2001 , a sludge management plan for Board staff approval. This plan must address how and where the sludge will be disposed of and the actions necessary to ensure compliance with state and federal regulations.		
5. Until capacity is provided and effluent quality consistently meets the terms of Order No. 99-100, the Discharger shall submit written quarterly reports to the Board by the first day of the second month following each calendar quarter that inform the Board in tabular form of all permits it issues authorizing new connections to the District sewerage system in the calendar quarter. The report shall include the rate of flow represented by each permit. Submittal of these reports can be terminated upon satisfaction of Task No. 2.e, above.		

Reports must summarize all actions taken to comply with the task described in this Order, and should discuss whether uncompleted tasks remain on schedule for completion by the deadlines stated.

Technical reports, construction, and modifications to the WWTF shall be prepared and overseen by a California registered civil engineer experienced in the design of wastewater treatment and disposal facilities. All reports and plans are subject to the approval of the Executive Officer.

If, in the opinion of the Executive Officer, the Discharger violates this Order, the Executive Officer may apply to the Attorney General for judicial enforcement or issue a complaint for Administrative Civil Liability.

I, GARY M. CARLTON, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on 26 January 2001.


GARY M. CARLTON, Executive Officer